

Washington, DC— Yesterday, Congressman Joe Sestak (D-PA) voted to support H.R. 3796, the Early Warning and Health Care for Workers Affected by Globalization Act, which passed in House Education and Labor Committee. — “Approximately three million workers a year lose their job through no fault of own. Job training programs, interim health coverage and unemployment benefits can be a significant resource for laid-off workers,” said Congressman Sestak. “The bill ensures that workers have adequate notice of plant closings and are aware of these services, and also addresses the health care needs of displaced workers by extending COBRA (Consolidated Omnibus Budget Reconciliation Act) coverage until they find new employment or become eligible to enroll in Medicare. As a member of the Education and Labor Committee, I will work hard for the passage of this important legislation.”

H.R. 3796 will ensure that workers have a longer period of time to prepare for imminent job loss and it will provide workers with the education and information they need before they find themselves unemployed and unsure of what to do next. This bill will provide more advanced notice of a plant closing or layoff, requiring employers to provide employees with a 90-day notice of mass layoffs and plant closures and to inform employees of benefits and services that would help them with an impending job loss.

When workers lose their jobs, they are also more likely to lose access to adequate health care coverage. This legislation extends the time period for Trade Adjustment Assistance (TAA) eligible employees who are 55 years old and over to continue their health coverage under COBRA, an insurance program giving some employees the ability to continue health insurance coverage after leaving employment. Coverage outside an employer sponsored health plan is often restrictive, expensive, and out of reach for many workers. Providing individuals with the option of extending their health insurance through COBRA can often be more affordable and allow for continuity of care.

In 1988, Congress passed the Worker Adjustment and Retraining Notification (WARN) Act, a law that required employers with 100 or more full-time workers give their affected employees or their representatives, the state’s dislocated worker unit (DWU), and local government officials at least 60 days advanced notice of an impending closure or layoff. Advance notice is intended to provide workers and their families with an appropriation amount of time to transition and adjust to the prospective job loss, to see and obtain alternative jobs, and if necessary, to participate in training so that workers can successfully re-enter the job market.

WARN required a notice for plant closures that affect 50 or more full-time workers who represent one-third or more of the workforce; or involve 500 or more full-time workers. Violators of the WARN Act are liable for back pay and benefits to each aggrieved employee, as well as a penalty calculated for each day notice was required but not provided, up to a maximum of 60 days.

However, while WARN has been an effective tool in helping workers over the past 18 years, there are critical coverage, compliance, and enforcement problems that still remain. Many workers are not protected by WARN because their employers do not meet its threshold

requirements. In other cases, employers have intentionally manipulated workforce reductions to evade WARN Requirements. More troublingly, the WARN Act fails to provide proper enforcement tools in the legal system, while the Department of Labor (DOL) is prohibited from stepping in and solving problems. Frequently, damages are inadequate and a judgment takes too long and compensation comes long after the time it is needed.

According to a 2003 Government Accountability Office (GAO) report, only 36 percent of employers provided advanced notice of mass layoffs and plants closures in 2001. In addition, workers are largely unaware of their rights to receive proper notice and other vital information that may assist them in their transition.

H.R. 3796 will amend WARN to ensure that it is a more effective tool in helping workers prepare for job loss. More specifically, the legislation:

- Increases the notice periods, from 60 days to 90 days, before a plant closing or mass lay-off.
- Streamlines how many layoffs triggers a WARN notice by requiring that employers give notice of a layoff or plant closing if 25 or more workers are affected in a 30-day period. Notice must also be given if an employer lays off 100 or more workers at multiple worksites in a 30-day period; Includes part-time workers when determining whether an employer meets the 100 employee threshold to be covered under WARN.
- Strengthens compliance by requiring employers to notify the Secretary of Labor when a WARN notice is given. The Secretary of Labor is then required to notify the appropriate Members of Congress, no later than 15 days after the notice is given.
- Requires employers to notify workers of the different benefits and services for which they might be eligible, and the Department of Labor to provide model educational material to employers on responsibilities and employee rights under WARN.
- Increases the remedy employees can recover if an employer fails to give the required notice to back pay and benefits up to 90 days, plus liquidated damages in the amount of double back pay and benefits.
- Extends the time period that workers can continue their COBRA health coverage at their own expense at cheaper group rates. Workers over age 55 who lose their jobs because of trade and who have worked with the same employer for over ten years could pay for COBRA coverage until they become Medicare eligible at age 65 or obtain health care through a subsequent employer.

“Globalization promotes many new opportunities, but it can also have a devastating impact on jobs in this country,” said Congressman Sestak. “This legislation will help employees and their families prepare for job loss and ensure that they have access to essential services during the transition. I urge my colleagues to support this important legislation.”

Born and raised in Delaware County, former 3-star Admiral Joe Sestak served in the Navy for 31 years and now serves as the Representative from the 7th District of Pennsylvania. He led a series of operational commands at sea, including Commander of an aircraft carrier battle group of 30 U.S. and allied ships with over 15,000 sailors and 100 aircraft that conducted operations in Afghanistan and Iraq. After 9/11, Joe was the first Director of "Deep Blue," the Navy's anti-terrorism unit that established strategic and operations policies for the "Global War on

Terrorism." He served as President Clinton's Director for Defense Policy at the National Security Council in the White House, and holds a Ph.D. in Political Economy and Government from Harvard University. According to the office of the House Historian, Joe is the highest-ranking former military officer ever elected to the U.S. Congress.